

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

RICHARD A. SCHOEN,

Plaintiff,

v.

Case No. 14-CV-35

CITY OF MILWAUKEE, et al.,

Defendants.

ORDER ON DEFENDANTS' MOTION TO DISMISS COMPLAINT

On January 13, 2014, the plaintiff, Richard A. Schoen ("Schoen") filed this 42 U.S.C. § 1983 action against the defendants, Board of Fire and Police Commissioners of the City of Milwaukee, the City of Milwaukee, and City of Milwaukee Mayor Tom Barrett (the "defendants"). On February 4, 2014, the defendants moved to dismiss the plaintiff's complaint pursuant to Fed R. Civ. P. 12(b)(6) on the ground that it fails to state a claim upon which relief can be granted. (Docket # 4.) On February 25, 2014, the plaintiff filed a response to the defendants' motion, as well as an amended complaint. (Docket # 9, Docket # 10.) The defendants have also moved to dismiss the amended complaint. (Docket # 11.) This action is currently stayed pending the resolution of proceedings in the Milwaukee County Circuit Court.

When a plaintiff files an amended complaint, the new complaint supersedes all previous complaints and controls the case from that point forward. *Massey v. Helman*, 196 F.3d 727, 735 (7th Cir. 1999). Thus, the plaintiff's amended complaint moots the pending motion to dismiss the original complaint. *See Aqua Finance, Inc. v. Harvest King, Inc.*, No. 07-

C-15, 2007 WL 5404939, *1 (W.D. Wis. Mar. 12, 2007) (“Under normal circumstances, the filing of an amended complaint renders moot any pending motion to dismiss.”). Thus, I will deny as moot the defendants’ motion to dismiss the plaintiff’s original complaint (Docket # 4.) The defendants’ motion to dismiss the amended complaint (Docket # 11) will be considered after the current stay is lifted.

NOW, THEREFORE, IT IS HEREBY ORDERED that the defendants’ motion to dismiss (Docket # 4) is **DENIED AS MOOT**.

Dated at Milwaukee, Wisconsin this 28th day of August, 2014.

BY THE COURT

s/Nancy Joseph
NANCY JOSEPH
United States Magistrate Judge